

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
JAMES BONINI
CLERK

2007 NOV 30 P 3: 29

UNITED STATES OF AMERICA

vs.

TREVOR FUSNER

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
No. CR2-07-EA-233
ST. DIV. COLUMBUS
JUDGE

JUDGE MARBLEY

PLEA AGREEMENT

Plaintiff United States of America and Defendant TREVOR FUSNER hereby enter into the following Plea Agreement pursuant to Rule 11(c) of the Federal Rules of Criminal Procedure:

1. Defendant TREVOR FUSNER will enter a plea of guilty to Count 1 of the Information herein which charges him with conspiracy to possess with intent to distribute in excess of five hundred (500) grams of cocaine, a Schedule II controlled substance, in violation of 21 U.S.C. §§846, 841(a)(1) and §841(b)(1)(B)(ii); and will enter a plea guilty to Count 2 of the Information with charges him with one count of knowingly carrying a firearm, that is a pistol, during and in relation to a drug trafficking crime, in violation of 18 U.S.C. §924(c)(1)(A)(i).

2. Defendant TREVOR FUSNER understands the penalty that must be imposed pursuant to his plea of guilty to Count 1 of the Information is a mandatory minimum term of five (5) years and a maximum term of imprisonment for forty (40) years, a fine of \$2,000,000.00, and a five (5) year term of supervised release. and that the required penalty for Count 2 is an additional term of imprisonment of 5 years which must be consecutive to any sentence served as a result of Count 1.

3. Prior to or at the time of sentencing the defendant will pay to the U.S. Department of Justice a special assessment in the amount of \$200.00 as required in 18 U.S.C. § 013. This assessment shall be paid by the defendant before sentence is imposed and defendant will furnish a receipt at the time of sentencing. The payments shall be made to the United States District Court, at the Clerk's Office, 85 Marconi Boulevard, Columbus, Ohio 43215.

4. Defendant TREVOR FUSNER agrees to testify truthfully and completely concerning all matters pertaining to the Indictment herein and to any and all other unlawful narcotics activities, unlawful activities by any current or former law enforcement officers and extortion under color of official right in which he may have been involved or as to which he may have knowledge. Defendant further agrees to provide a complete statement to authorities of the United States concerning such matters prior to the entry of his guilty plea pursuant to this agreement. Defendant agrees to submit to supplemental debriefings on such matters whenever requested by authorities of the United States, whether before or after his plea is entered.

Pursuant to §1B1.8 of the Federal Sentencing Guidelines, the government agrees that any self-incriminating information so provided will not be used against the defendant in determining the applicable guideline range for sentencing, or as a basis for upward departure from the guideline range.

5. If such plea of guilty is entered, and not withdrawn, and the Defendant TREVOR FUSNER acts in accordance with all other terms of this agreement, the United States Attorney for the Southern District of Ohio agrees not to file additional criminal charges against Defendant TREVOR FUSNER based on his activities charged in the Information or based on other narcotics violations as to which Defendant gives testimony or makes statements pursuant to this agreement. By virtue of the defendant pleading guilty to the Information in exchange for the United States' agreement to not prosecute him for any additional narcotics violations that he may disclose during the course of his co-operation the defendant understands that he is not a prevailing party, as defined in 18 U.S.C. §3006A, and hereby expressly waives his right to sue the United States as a result of such decision not to prosecute him.

6. Defendant TREVOR FUSNER understands that this agreement does not protect him from prosecution for perjury, should he testify untruthfully, or for making false statements, nor does it protect him from prosecution for other crimes or offenses which the United States discovers by independent investigation. Further, should Defendant fail to comply fully with the terms and conditions set forth herein, this agreement is voidable at the election of the United States Attorney for the Southern District of Ohio, and Defendant TREVOR FUSNER may be subject to prosecution as if the agreement had never been made.

7. The defendant, TREVOR FUSNER, is aware that, in light of United States v. Booker, 125 S.Ct. 738 (2005), the United States Sentencing Guidelines are advisory and are no longer mandatory. The defendant is aware that the Court has jurisdiction and authority to impose any sentence within the mandatory minimum and statutory maximum set forth for the offenses to which the defendant pleads guilty. The defendant is aware that the Court has not yet determined a sentence. The defendant is also aware that any estimate of the probable sentencing range under the United States Sentencing Guidelines that the defendant may have received from any source, is a prediction, not a promise, and is not binding on the United States, the probation office, or the Court. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw the guilty plea based upon the actual sentence imposed.

8. It is agreed that if the Court refuses to accept any provision of this Plea Agreement, with the exception of the agreements contained in paragraph 9, neither party is bound by any of its provisions, Defendant TREVOR FUSNER may withdraw his guilty plea, and the United States Attorney for the Southern District of Ohio may proceed with prosecution without prejudice.

9. It is further agreed by the parties hereto that, for purposes of sentencing: (1) the amount of cocaine to be attributed to defendant pursuant to §2D1.1 and §1B1.3 U.S.S.G. will be in excess of 500 grams but less than 2.5 kilograms, or a

base offense level of 26; however by virtue of the Operation of requirements of 21 U.S.C. §§846, 841(a)(1) and §841 (b)(1)(B)(ii), the defendant understands he will have to serve a minimum sentence of 5 years; (2) the United States will not object to a three level reduction for acceptance of responsibility pursuant to §3E1.1 U.S.S.G., provided defendant merits such a reduction according to the terms of §3E1.1 U.S.S.G.; and (3) By virtue of the operation of 18 U.S.C. §924(c)(1)(A)(i) The defendant understands he will have to serve another consecutive minimum sentence of 5 years. Finally, the parties understand these agreements as the United States Sentencing Guidelines are not binding on either the United States Probation Office or the District Court and that the final determination of the applicable guideline range for the defendant's sentence rests solely with the District Court.

10. The United States Attorney for the Southern District of Ohio agrees that if the defendant, TREVOR FUSNER, provides substantial assistance in the investigation or prosecution of others who have committed criminal offenses, the United States Attorney may move the Court pursuant to 18 U.S.C. §3553(e) and/or §5K1.1 of the United States Sentencing Guidelines for an appropriate departure from the otherwise applicable guideline range for Defendant's sentence and will in connection therewith make known to the Court the nature and extent of Defendant's assistance. Defendant understands that whether such motion should be made lies within the discretion of the United

States Attorney and that whether and to what extent such motion should be granted are solely matters for determination by the Court.

11. No additional promises, agreements, or conditions have been made relative to this matter other than those expressly set forth herein, and none will be made unless in writing and signed by all parties.

11-15-07
Dated

Trevor Fusner
TREVOR FUSNER
Defendant

Robert L. Washburn
ROBERT WASHBURN
Attorney for Defendant

GREGORY G. LOCKHART
UNITED STATES ATTORNEY

J. Michael Marous
J. MICHAEL MAROUS (0015322)
DAVID DEVILLERS (0059456)
Assistant United States Attorneys

I CERTIFY THAT THIS IS A
TRUE AND CORRECT COPY OF THE
ORIGINAL FILED IN MY OFFICE
ON November 30, 2007
JAMES BONNI, CLERK
BY: Sammy Jones
Deputy Clerk
DATE: November 30, 2007